

New Funding Provisions Improve the Construction Lien Act

January 4, 2007 - The department welcomed the Governor's approval of two new laws this week, which revise the Construction Lien Act, handled within the Bureau of Commercial Services. Senate Bill 405 of 2005 and Senate Bill 459 of 2005, now Public Acts 572 and 497, respectively, were a top priority for DLEG in the last legislative session.

The acts will create more stable funding for the Homeowner's Construction Lien Fund. The new laws also ensure that builders and contractors, who pay the costs of the fund, will be better able to anticipate their obligations, by eliminating one-time assessments when the funding falls below a certain threshold and replacing it with smaller fees at license renewal time. Suppliers and laborers can protect themselves by joining the fund, also paying regular, renewable fees. Other provisions in the new statutes clarify the rights and responsibilities of homeowners and their representatives (usually banks or mortgage companies), builders and suppliers, and are intended to prevent over-use of the fund.

The Homeowner's Construction Lien Fund was initially enacted to protect homeowners and suppliers subjected to financial ruin by residential builders who failed to pay their obligations on construction projects. Homeowners could be subject to liens that required them to pay twice for the same services. Suppliers and subcontractors might not be paid for their services, when the money from the project was used for other purposes.